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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3620 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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A R MEHTA

Versus

STATE BANK OF INDIA

Appearance:

MR MANOJ N POPAT for Petitioner No. 1
MR PRANAV G DESAI for Respondent No. 1-3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 06/08/2001

ORAL JUDGEMENT

By means of this petition, the petitioner has sought for a direction to the respondent Bank to pay up the interest to the petitioner on his provident fund amount, pension amount and gratuity amount in accordance with law with effect from 1-12-1984 till the actual payment is made to the petitioner.

2. The petitioner retired from service of the respondent Bank on attaining the superannuation age i.e. 58 years from 1-12-1984. Amount of Rs.20000/- as gratuity was sanctioned on 20-12-1984 and vide letter dated 7-1-1985 the same was to be delivered through the officer of the respondent Bank. As the petitioner was not available at his residence, his wife refused to accept the letter against the acknowledgment. Another attempt was made to deliver the same personally but in vain. The letter dated 8-4-1985 was sent by Registered Post A.D. to the petitioner informing him to collect the amount of gratuity. It is true that the petitioner collected the amount of gratuity on 6-5-1985 which was sent by Registered Post A.D. The Branch Manager of the respondent Bank sent a letter dated 26-9-1985 to the petitioner for completing requisite formalities and the petitioner completed the same on 15-2-1986. Thereafter, the petitioner sent various letters, telegrams and applications to the respondents for making payment of the amounts which were not paid to him towards retiral benefits. On 19-9-1987 the General Secretary of the State Bank of India Officers' Association sent a letter to the Chief General Manager, Ahmedabad requesting him to pay retiral benefits to the petitioner. Even though, the retiral benefits were not paid to the petitioner.

3. From the affidavit-in-reply is filed on behalf of the respondent Bank. It appears from the said affidavit-in-reply that the respondent Bank sent a letter dated 30-5-1988 to the petitioner for collecting the payment of provident fund dues. But he avoided to receive the Bank's cheque under one pretext or other. Finally, the petitioner accepted cheque dated 30-11-1988.

4. Heard the learned counsel for the parties and perused the relevant material on record.

5. The contention of the learned counsel for the petitioner is that the petitioner is entitled to the interest on the amount of retiral benefits given to him after more than four years. It also appears from the affidavit-in-reply that the pension was released to the petitioner on 28-5-1988. Thus, even if it is assumed that the Bank sent a letter to the petitioner to complete all the requisite formalities by letter dated 26-9-1985 and all the formalities were completed on 15-2-1986 there could not be any hesitation for the respondent Bank to send that amount to the petitioner by registered post as the cheque of gratuity was sent by the respondent Bank to the petitioner and that was accepted by the petitioner.

As such, the petitioner is entitled to the interest on the amount of arrears of pension from 15-2-1986 till 30-5-1988 when the respondent asked the petitioner to collect provident fund dues. It is mentioned in para 7 of the affidavit-in-reply that the arrears on account of revision of pay was released on 20-5-1998 as the petitioner had already released furnished all requisite documents for pensionary benefits on 15-2-1986, the petitioner is entitled to the interest on the amount of arrears on account of revision of pay. Fourthly, it is mentioned in the same paragraph that the refund of his provident fund was sanctioned and it was directed to be refunded to the petitioner on 30-5-1988. This amount of provident fund was actually paid on 2-11-1988. That amount of provident fund was to be paid to the petitioner on 30-5-1988 and hence the petitioner is entitled to interest on this amount from 15-2-1986 to 30-5-1988. It is stated that the interest on this amount was paid for the period from 19-11-1987 to 31-5-1988. The petitioner is entitled to interest on the amount of provident fund for the period from 15-2-1986 to 30-5-1986 excluding the amount of interest already paid. According to item no. 5, encashment of leave amounting to Rs.15,864/- was released and paid to the petitioner on 28-5-1988. All the formalities for payment of pensionary benefits were completed on 15-2-1986. The respondent Bank is at fault in not paying this amount on or after 15-2-1986 and even within few days thereafter. As such, the petitioner is also entitled to the interest on the amount of Rs.15,864-53 from 15-2-1986 to 30-5-1988. Item No. 6 is in respect of contributions made by the petitioner to the Mutural Welfare Scheme which was sanctioned on 24-6-1988. The petitioner has retired on 1-12-1984. The respondent Bank was knowing the fact that this amount has to be paid to the petitioner. Even then, this amount was sanctioned on 24-6-1988 and it was released on 6-7-1988. As such, the petitioner is entitled to receive this amount of welfare scheme for which he has already furnished documents on 15-2-1986. The petitioner is also entitled to the interest on this amount for the period from 15-2-1986 till 6-7-1988.

6. It appears that the respondent Bank has paid the amount of Rs.5,022-05 as interest from 19-11-1987 to 31-5-1988 on the amount of provident fund at the rate whatsoever it may be and that rate of interest will be applicable on all the amounts as stated above. Therefore, this petition deserves to be allowed.

7. Accordingly, this petition is allowed and the respondent Bank is directed to make payment of interest

within three months on the above mentioned amounts at the rate to be calculated at the rate which was paid as Rs. 5022-25 ps. on the amount of provident fund for the period from 29-11-1987 till 31-5-1988 to the petitioner. Rule is made absolute to the aforesaid extent, with no order as to costs.

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/JVSatwara/